

### Mineral Land—An Important Decision.

We publish herewith the text of a letter from the Secretary of the Interior to the Commissioner of the General Land Office. It reviews litigation over certain mineral tracts in Placer county, California, and it reverses finally a decision of the Commissioner in regard to the conflicting applications for timber-land.

Five years ago some timber lands were located on the ridges of the Forest Hill divide, in Placer county. This is a region famous for its 'deep leads,' that is, ancient alluvial channels now covered with lava. In these gravel deposits successful mining has been conducted in a systematic manner for thirty years or more, and claim- wens- located along the supposed course of the old river-beds. Of course, the exact position of them could not be ascertained beforehand, and therefore most of the ground located bore no evidence of its mineral value. In the same way, the existence of oil is not often indicated by the surface and until bores intercept the productive stratum, a potential oilfield looks like anything but the place for a mineral industry. In the case of oil, it has been decided that pending the exploration and testing of land supposed to be valuable for this mineral substance, the ground can be held under mineral location. The decision of the Secretary of the Interior in the two cases referred to in the subjoined letter is in accord with the spirit of the law and will be highly gratifying to those engaged in this class of mining.

The protestants in the above case were Frank A. Leach, president of the Eureka Con. Drift Mining Co., and Charles F. Hoffman, representing the French company operating at Red Point. Mr. Leach is the present superintendent of the San Francisco Mint; he has been selected to succeed Mr. George E. Roberts as Director of the United States Mint. Mr. Hoffman is an engineer of reputation and one of a family long identified with progressive mining methods in California. The letter follows:

Department of the Interior, Washington, May 2, 1907.

Alfred Dixon, et al.

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Byron I. Taylor, et al.

The Commissioner of the General Land Office:

Sir:

November 21, 1902, pursuant to the Act of June 3, 1878 (20 Stats., 89), timber-land applications for tracts in T 15 N, R 12 E, M. D. M., Sacramento (California) land district, were filed as follows:

No. 1,791, by Byron I. Taylor for NW  $\frac{1}{4}$ , Sec. 8.

No. 1,792, by Ibo I. Heyen for S  $\frac{1}{2}$ , SW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , SW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Sec. 20.

No. 1,793, by Charles A. Shannon for E  $\frac{1}{2}$ , SE  $\frac{1}{4}$ , S  $\frac{1}{2}$ , NE  $\frac{1}{4}$ , Sec. 20.

No. 1,794, by William Esterbrook for W  $\frac{1}{2}$ , SE  $\frac{1}{4}$ , NE  $\frac{1}{4}$ , SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Sec. 20.

No. 1,795, by Charles C. Root for NE  $\frac{1}{4}$ , Sec 8.

Notice of the submission of proof before the local officers on March 5, 1903, was given, each timber land claimant designating the four other applicants as his witnesses. On the day fixed proof was taken in support of each application and each applicant, and his two witnesses were cross-examined by a special agent. The proofs submitted appear to be in the usual form and indicate prima facie that the tracts sought are of the character and condition contemplated by the timber-land act. The purchase money for the land was tendered, and in each case refused because of the pending protests mentioned below.

On March 5, 1903, and prior to the submission to the timber proof, Alfred Dixon and seven others filed their verified protest., one against each timber-land applicant but all substantially similar in form and contents, and Frank A. Leach, president of the Eureka Consolidated Drift Mining Co., joined with Charles F. Hoffman, agent of the Societe Ainuiyiiiie lies Miners de Golden River, in filing two protests essentially similar, one directed against timber-land application No. 1,791 and the other against

application No. 1,795. The recitals contained in the protests are lengthy, but the protestants in substance and effect allege that the tracts applied for contain gravel deposits carrying gold and quartz veins or lodes bearing gold and silver in paying quantities, and are more valuable for mineral than for timber or agricultural purposes; that portions thereof are embraced in mining claims; that the tracts are situated in a mineral belt and in the midst of one of the richest mining districts in the State, and that the timber applicants are not applying for the land in good faith for their sole use and benefit, but for and in the interest of an association, or corporation, with the design of fraudulently acquiring mineral land. The protestants asked for a hearing.

July 13, 1903, the hearing commenced, all parties being represented by counsel. Ten witnesses were produced by the protestants and examined. The protestees presented no witnesses but rested their case upon their timber proof which was specially offered in evidence and objected to by the protestants on the ground that no opportunity had been offered for cross-examination upon the non-mineral return of the land in question, and upon the cross-examination of protestants witnesses.

October 12, 1904, the receiver of the local land-office recommended that the plats applied for situated in the N I, Sec. 8, and in S 4, N J, Sec. 20, be adjudicated mineral in character, and that the application as to said tracts be rejected, while the Register recommended that all the land applied for be adjudged mineral and all the applications be rejected.

Both parties prosecuted appeals to your Office, which on October, 1905, decided that the lands applied for were non-mineral in character and were properly subject to disposition under the Timber Act; and it was stated that in the event such decision became final, and in the absence of other objections, the timber proofs offered would be accepted and upon proper payments final receipts and certificates would be issued. The protestants have appealed and contend in substance that the decision of your Office is unsupported by and contrary to, the evidence.

The record, which has been fully examined, is too voluminous and the evidence enters into details too numerous, to warrant the undertaking of an extended discussion. Miners of the vicinity, mining engineers, and experts testified, and among them was Ross E. Browne, an eminent geologist and an authority on deep channel placer deposits of the character here involved.

By the evidence adduced, it is shown that the lands in Sec. 8 are upon the western slope of the Sierra Nevada mountains, upon the Forrest Hill divide, an extensive ridge consisting of a thick volcanic cap overlying valuable auriferous placer deposits in gravel beds and channels of an ancient river valley, the boundary rim of which has been carefully determined. There are many paying mines within the ridge in the near vicinity. Above the land here involved four deep gold-bearing channels and a large area of an underground auriferous gravel bed have been worked by means of tunnel and drifts; while below, three well-defined ancient channels have been capped and developed, besides a number of gravel beds of small area. It is clearly indicated that these gravel beds, owing to their extensive distribution, are but portions of a general deposit existing throughout that region of the divide, and that some, if not all, of the gravel channels mentioned, owing to their grade and general trend toward the land in question, must, in their onward courses, pass through, and exist beneath, the north half of Sec. 8. From that portion of one of these channels in the southern part of Sec. 8, not less than \$100,000 in gold has been extracted. This channel has been worked for many years and has always paid. The main drift thereon is almost four miles in length and is directed toward the eastern portion of the N A of Sec. 8.

The Colfax folio of the Geologia Survey, which was received in evidence over the general objection of the protestees that it was incompetent and irrelevant, but which the Department believes may

properly be considered, deals with the area in which the land in controversy is located and is corroborative of many points of the testimony. In the folio, geologist Lindgren states:

"The fluviatile origin of the gravel channels and the general disposition of these ancient rivers are not theories; they are facts convincingly and completely proved. The remarkable absence of faults over the western slope has been a great aid in the interpretation of the gravel channels."

In view of all the features of this case disclosed by the evidence, taking into consideration the geological formation, the disclosures of valuable deposits in the adjoining and surrounding lands, and the general trend and pitch of the known channels toward these tracts, together with the essentially similar and identifying characteristics of the entire divide, the Department is clearly of opinion that the N A of Sec. 8 is actually mineral in character and valuable for its deposits of placer gold and therefore not subject to disposition under the provisions of the Timber-land Act. As to this land the decision of your Office is reversed.

The tracts in Sec. 20 embraced in the timber-land applications about two miles directly south of the land involved in Sec. 8, are shown to be situated upon a southerly projecting spur of the divide, and are not covered by the lava cap. After a careful consideration of the evidence, the Department is of the opinion that as to these facts no such showing of the existence of a valuable mineral deposit has been made as will defeat the timberland application. As to the land in Sec. 20 the decision of your Office is accordingly affirmed. The papers are herewith returned for further proceedings in accordance with the views herein expressed.

Very respectfully, (Signed) J. R. Garfield, Secretary.

*Mining and Scientific Press, V. 95, 7/27/1907, p. 123*